

## **REMARKS**

### **Communication of January 19, 2006**

In the Office Communication issued January 19, 2006, it is alleged that Applicants' Reply of October 11, 2005, did not address the rejection of the claims under 35 USC 103(a). Applicants disagree.

The Office Action of April 8, 2005, presented two prior art rejections, i.e., the rejection of claim 47 under 35 USC §102(a) in view of the abstract by Leblond et al., and the rejection of claims 1-46 under 35 USC §103(a) in view of Gourdeau et al. (US 6,747,036) in combination with Chu et al. (US 5,817,667) and the Leblond et al. abstract. As can be seen, both of these rejections rely on the Leblond et al. abstract.

In the Reply of October 11, 2005, Applicants responded to both of these rejections in the comments under the heading "Rejections under 35 USC §102(a) and under 35 USC §103," the text of which is repeated below. The rebuttal of the rejections demonstrated that Leblond et al. abstract was not prior art with respect to Applicants' claimed invention. Since both rejections relied on the Leblond et al. abstract, both rejections were rebutted.

Allowance of the instant application is respectfully requested.

### **Rejections under 35 USC §102(a) and under 35 USC §103**

Claim 47 is rejected as being anticipated under 35 USC §102(a) in view of the abstract by Leblond et al.. In addition, claims 1-46 are rejected as allegedly being obvious in view of Gourdeau et al. (US 6,747,036) in combination with Chu et al. (US 5,817,667) and the Leblond et al. abstract.

The Leblond et al. abstract lists 11 co-authors, including the two inventors. It is noted that the abstract is attributed to Shire BioChem, the assignee of the instant application. The results discussed in this abstract are not the work of "another" under 35 USC §102(a), but are

instead the work of the inventors.


Applicants are filing herewith Declarations under Rule 132 by each of the two inventors. These Declarations confirm that, to the extent the claimed invention is disclosed in these publications, such disclosures are of the invention of Jacques Jolivet and Henriette Gourdeau, the two co-inventors of the present application. Therefore, this abstract does not constitute prior art with respect to the claimed invention. See, e.g., *In re Katz*, 687 F.2d 450, 215 USPQ 14 (CCPA 1982).

Subsequent to the execution of these two Declarations, it was determined that there is an error in the text. Specifically, the Declarations refer to a study done on rats. Actually, the study mentioned was done on mice. Applicants will submit corrected Declarations in the near future.

For the reasons discussed above, withdrawal of the rejections under 35 USC §102(a) and 35 USC §103 is respectfully requested.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



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